APPENDIX A

Set forth herein are pertinent portions of the Presiding Administrative Law Judge's findings and conclusions on the issue of comparative needs of Transco and its customers and Natural and its customers:

"The only areas where effective comparison can be made on the existing record are the existing reserves and reserve life indexes, the present and proposed curtailments, reordering of priorities and end use, and the impact upon the customers—particularly those that have participated in the proceeding. The Examiner rejects Transco's contention that the record, as it stands, requires a denial of the abandonment application without consideration of a comparison of both pipelines' needs and operations. However, on the basis of the evidence of record, as discussed below, the Examiner has concluded that Natural has failed to prove that the present or future public convenience or necessity permit abandonment. The abandonment applications must be denied.

First, while Transco's customers are experiencing an actual curtailment of gas, Natural's customers primarily are unable to add additional load within contract demand. Transco's customers take gas when permitted at almost a 100% load factor. In that Transco's customers recently have always taken all the gas they can get within their contracts, any curtailment results in a reduction of takes. This is true regardless of whether some of the gas sold in the summer as interruptible should have been used by Transco for a better balanced storage program and, if so used, would have reduced the percentage of curtailment in 1971-1972. Natural's customers, however, have not traditionally taken gas at 100% load factor on an annual basis; NI Gas and Peoples, for example, have experienced load factors of about 94% and about 90% respectively. Since both purchased gas at close to 100% during the winter, the summer load factors were much reduced. Increased load factor not only resulted from increased growth of summer boiler fuel sales, such as Commonwealth Edison's huge 1969-1971 additional purchases from Peoples, but also because at the same time as Natural expanded its storage fields a number of these companies embarked on expansion of their own

storage facilities so as to take the maximum gas under their own contract demand and sell it during the winter heating season. The impetus for this reordering of priorities is not altogether an altruistic desire to protect the residential consumer but because it is a profitable undertaking in that the per unit cost of gas decreases as the load factor increases, and per unit sales prices are higher in the winter for residential sales than in the summer for boiler fuel. While much of the stored gas would be used for winter heating uses of residential customers served by Natural or its distributors, the fact remains that the La Gloria gas will not replace gas previously bought and distributed by them. Thus, whereas Transco has a cut-back from levels of previous purchases by its customers, Natural's "cut-back" is essentially incremental in nature and is previously a limitation on growth. [1]

Nor does a comparison of the growth limitations disclose as serious a situation on Natural's system as on Transco's. While most of the companies involved are expanding sales and each has sold more gas in 1971 than in the preceding year, the rate of growth has varied. NI Gas for example has been growing at a rate of 8% to 9% annually and its projected deficiencies of 43,000 MMcf in 1971 and 50,000 MMcf in 1972 are essentially the amounts of gas required to continue growth at this level. While NI Gas's tariff permits attachments of new customers of up to 200 Mcf/d without a requirement of temperature control and Peoples' tariff permits a range of attachments on a priority favoring residential space heating, Brooklyn Union's tariff restricts any sales to customers exceeding 2 Mcf/hour (averaging 14-16 Mcf/d. Peoples has no limitation on attachments of additional loads for cooking, clothes drying, air conditioning or other residential non-space heating needs. Brooklyn Union under its tariff added 1,344 new customers and furnished 4,547 existing customer space heating gas, (1,200 MMcf annually of increased sales), but it has had no increase in the total number of customers in 10 years. NI Gas has, on the other hand, added 45,000 residential customers in 1971 and anticipated similar annual growth in the

[1] Through 1970 Natural's load factor did not exceed 85%, although in 1971 it exceeded 91%. Natural added substantial contract demand in December 1970.

future (a 1% growth factor for NI Gas represents between 4,000 and 5,000 MMcf annually of increased sales). Peoples added 81,000 equivalents in 1970 and estimated its growth at 33,000 equivalents for 1971. Thus, NI Gas alone has added eight times the number of residential customers than Brooklyn Union, and even if adjustment is made for the difference in territory served by the utilities, it was substantially more than Brooklyn Union. The conclusion is inescapable that Brooklyn Union is more severely limiting attachments of new customers than NI Gas and Peoples and is making substantially fewer attachments under its program than is either NI Gas or Peoples.

Neither Brooklyn Union, Peoples nor NI Gas, however, is in imminent danger of being unable to provide service to existing customers. Brooklyn Union's concern is the occurrence of that hypothetical winter following a design winter where its storage facilities would be low and could not be refilled from pipeline gas to meet customer needs. Brooklyn Union's design year is based upon the most severe winter of this century, and NI Gas on a design year which has occurred less than seven times in this century. NI Gas could not only meet a normal winter in 1972-1973, but the predicate for its estimates are a continued adding of 45,000 residential customers annually as well as commercial and industrial customers using less than 200 Mcf/d. While there is no question that their margins of safety are being reduced, and will continue to be reduced if they add substantial quantities of new load without purchasing new gas, they are not in imminent danger of running out of gas to serve their existing firm customers' needs. To the extent the dispute as to adverse effect is not based on present flowing gas deficiencies and curtailments but centers on long range projections, the situation will be affected by increased new sales during the intervening years and no finding of serious impairment of service to existing firm customers now can be made as to any of the companies involved." (J.A. 96-98).

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On the basis of all of the evidence of record, the Examiner concludes that Transco and its customers have a continuing need for the 81,000 Mcf/d of La Gloria gas not being sold them by the producers; that Transco's curtailment and possible effect on existing customers is more sub-

stantial than the effect of a decrease in purchases of primarily valley gas by Natural's customers; that Natural has failed to show that the adverse effect on it and its customers as compared to Transco and its customers permit abandonment by the producers of this sale to Transco; and that the applications seeking to abandon such sales must be denied." (J.A. 101).